

**REMARKS**

The Examiner has rejected the Applicant's prior amendments to the claim language on the grounds of new matter under 35 U.S.C. §132 and written description under 35 U.S.C. §112, ¶1. In light of these rejections, the Examiner maintained the rejections under 35 U.S.C. §103(a) based upon Burnett (U.S. Patent No. 5,675,312), Leitten et al. (U.S. Patent No. 5,420,570) and Lee (U.S. Patent No. 5,707,757) using a "prior art consideration [which] treats the claims without such new matter, i.e., without the amendment portion." (Office Action at 3). The only alleged "new matter" is the terms which recite "that the water resistant barrier is applied to the housing such that 'water entering the housing is prevented from entering the first cavity and affecting the piezoelectric transducer.'" (Office Action at p. 2).

In response, applicant respectfully traverses the rejection as understood and declines to cancel the claim language in question, as support may be found in the specification which states that the barrier is part of the housing, i.e., the housing may include the front grill and the barrier. (See specification, p. 4, lines 7-9). In addition, the specification further specifically teaches that "the invention is likewise intended to cover a housing front face constructed out of such hydrophobic materials" as well as "a hydrophobic PTFE cover attached to the housing[.]" (See specification, p. 6, lines 10-14). In other words, those of ordinary skill would understand that the written description provided by applicant supports a device where the front face of the housing itself – not just an external barrier connected to the housing – includes the hydrophilic material barrier that is included within the scope of the claims as amended. As such, applicant submits that the

claims as previously amended do not include "new matter," nor do such claims lack support in the written description of the specification.

Thus, dealing with the prior art rejections, the applicant's prior comments distinguishing the claims (as amended) are still applicable. The Examiner rejects Claims 1, 6-7, 9-11 and 13-14 under 35 U.S.C. 103(a) as being unpatentable over Burnett in view of Leitten et al. (Office Action at 3). Respectfully, applicant submits that it would be improper to combine the references as asserted, and that even if it were proper to combine such references, such a combination would not result in the invention as presently claimed.

Leitten et al. is relied upon by the Examiner to support a structure to prevent water or moisture from seeping into the device. Leitten et al. teaches the use of a Mylar or GORETEX material to cover the entirety of a watch face or housing. ('570 patent at col. 6, lines 26-40). In other words, Leitten et al. does not teach or suggest preventing water from entering a portion of a housing which contains a piezoelectric transducer, while leaving unaffected other sound amplifying cavities. If the teaching of Leitten et al. were applied to Burnett, the result would not be a cavity which would be water-proofed, but rather the entire housing would be so water-proofed, with the result that the device would have an undesirable damping in the decibel level of noise produced. By contrast, the present invention, with its claims amended to distinguish from Leitten et al., makes clear that the hydrophobic material is intended not to cover the entire housing, but rather only those portions of the housing communicating with the first cavity (i.e., the cavity immediately surrounding the piezoelectric transducer). The present invention is not directed toward, and indeed would not produce a desirable result if the entirety of the housing were covered

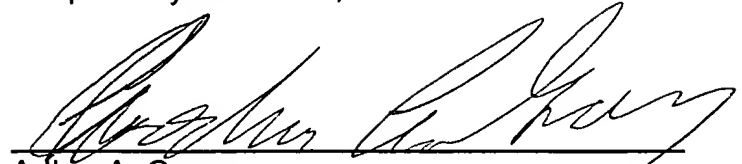
with the hydrophobic barrier. Thus, Leitten et al., if combined with the Burnett reference, would not teach or suggest the claimed invention.

Claims 2-5, 8 and 12 were rejected under 35 U.S.C. §103(a) based upon the same combination of references cited above, and further in view of Lee. The same points raised above regarding Burnett and Leitten et al. are likewise applicable to this rejection. In addition, Lee is non-analogous prior art, and there is no suggestion or teaching to combine it with the other references relied upon in rejecting claims 2-5, 8 and 12. Lee relates to a water-proof and gas pervious casing for a battery. ('757 patent, abstract). Lee teaches the use of a plurality of gas pervious sheets, at least one of which is water-proof in order to encapsulate a battery cavity within an electrical appliance. (Abstract; see also col. 4, lines 14-34). Nothing in Lee suggests using a water resistant fastener in combination with a water resistant, air permeable barrier. Likewise, nothing in Lee suggests using the battery encapsulation it teaches in a transducer housing assembly.

### **CONCLUSION**

In light of the above, Applicant respectfully submits that Claims 1-13 are in condition for allowance. However, should an allowance not be forthcoming, Applicant requests that the undersigned attorney be contacted prior to the issuance of any further Office Action.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Arthur A. Gasey', is written over a horizontal line.

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